

No. 1006—*L. C., Bangalore, dated 29th November 1938.*

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Mysore Juveniles Bill is published for general information with the statement of objects and reasons.

By Order,
B. K. RAMAKRISHNAYA,
For Secretary,
Mysore Legislative Council.

MYSORE JUVENILES BILL.

Preamble

Whereas it is expedient to make provision for the custody, trial and punishment of youthful offenders, for the establishment and regulation of Borstal Schools, for detention and training of youthful offender, and for the protection of children and young persons in Mysore; it is hereby enacted as follows:—

PART I.

Short title and extent.

1. (i) This Act may be called as the "Mysore Juveniles Act 1938."

(ii) The Government may, by notification, from time to time, apply the whole or any portion of this Act to children, young persons or youthful offenders or any class thereof in any local area in the State of Mysore from such date as may be specified in the notification and may cancel or modify any such notification.

Definition.

2. In this Act unless there is anything repugnant in the subject or context—

(i) "Child" means a person under the age of fourteen years and when used in reference to a child sent to a Borstal School applies to that child during the whole period of detention, notwithstanding that the child attains the age of fourteen years before the expiration of that period.

(ii) "Young person" means a person who is fourteen years of age or upwards and under the age of eighteen years.

711

(iii) "Youthful offender" means any person who has been convicted of an offence punishable with transportation or imprisonment or who, having been ordered to furnish security under section 118 of the Code of Criminal Procedure, 1904, has failed to do so and who, at the time of such conviction or failing to give security, was under the age of eighteen years.

(iv) "Guardian" in relation to a child, young person or youthful offender includes any person, who, in the opinion of the court having cognizance of any case in relation to the child, young person, or youthful offender or in which the child, young person, or youthful offender is concerned, has for the time being the charge of or control over the child, young person, or youthful offender.

(v) "Borstal School" shall mean a corrective institution established under the Act wherein children, young persons or youthful offenders, whilst detained in pursuance of this Act, are given such industrial training and other instruction and are subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime.

(vi) "Inspector-General" shall mean the Inspector-General of Prisons and shall include any officer appointed by the Government to perform all or any of the duties imposed by this Act on the Inspector-General.

(vii) "Prescribed" means prescribed by the rules under this Act.

3. (i) For the purposes of this Act, the Government may establish one or more Borstal Schools.

(ii) For every Borstal School, the Government shall appoint a Superintendent and a Committee of Visitors.

4. (i) The Government may, from time to time, Rules. after previous publication, make rules for the purpose of carrying into effect the provisions of this Act.

(ii) In particular and without prejudice to the generality of the foregoing power, such rules may be made with regard to—

- (a) the control and management of Borstal Schools established under this Act,
- (b) the appointment, powers and duties of officials in such schools,
- (c) the constitution, powers and duties of visiting committees,

712

- (d) the classification, treatment, maintenance, education, industrial training and control of the inmates,
- (e) the temporary detention of youthful offenders until arrangements can be made for sending them to Borstal Schools,
- (f) visits to and communication with the inmates,
- (g) the class of persons who may be authorized under section 25 (i),
- (h) removal of articles which are deemed to be "prohibited articles" when introduced without due authority,
- (i) the penalties to be imposed for the supply or possession of such articles when possessed or supplied without due authority,
- (j) the punishment or offences committed by youthful offenders,
- (k) the granting of licences for the employment of youthful offenders.

(3) All rules made under this Act shall be published in the local official Gazette and on such publication shall have effect as if enacted in this Act.

5. Subject to any alterations, adaptations and exceptions made by this Act and the rules framed under it, Prisons Act, 1870, and the Mysore Prisoners' Testimony Act, 1894, and the rules framed thereunder shall apply in the case of every Borstal School established under this Act as if it were a prison and the youthful offenders prisoners.

Application
of the Mysore
Prisoners'
Testimony
Act, 1894.

Courts
empowered
under this
Act.

6. The powers conferred on courts by this Act shall be exercised only by—

- (a) the High Court,
- (b) a Court of Sessions,
- (c) a District Magistrate,
- (d) a Sub-Divisional Magistrate,
- (e) any Magistrate of the first or second class specially empowered by the Government to exercise all or any of such powers,
- (f) any Juvenile Court constituted under subsection (1) of section 28

and may be exercised by such courts whether the case comes before them originally or on appeal or in revision.

213

7. (i) When any Magistrate not empowered to pass sentence under this Act is of opinion that a child or young person brought before him or convicted by him is a proper person to be detained in a Borstal School, he may, without passing sentence, record such opinion and submit his proceedings and forward the child or young person to the District Magistrate to whom he is subordinate or to the Magistrate presiding over the nearest juvenile court having jurisdiction in the case.

Procedure
when Magis-
trate is not
empowered
to pass
sentence
under this
Act.

(ii) The District Magistrate or the Magistrate presiding over the juvenile court to whom the proceedings are so submitted may make such further enquiry (if any) as he may think fit and may pass such sentence or order dealing with the case as he might have passed if such child or young person had originally been brought before him or tried by him.

PART II.

YOUTHFUL OFFENDERS.

8. Where a person apparently under the age of eighteen years is arrested on a charge of a non-bailable offence and cannot be brought forthwith before a court, the officer in charge of a police station to which such person is brought shall release him on bail if sufficient surety is forthcoming, unless, for reason to be recorded in writing, the officer believes that such release would defeat the ends of justice or that the release of the child or young person would bring him into association with any reputed criminal.

Bail of
children
and young
persons
arrested.

9. Where a person apparently under the age of eighteen years having been arrested is not released under section eight or otherwise, the officer in charge of the police station shall cause him to be detained in the prescribed manner, until he can be brought before a court having jurisdiction under this Act.

Custody of
children
and young
persons not
discharged on
bail after
arrest.

10. A court on remanding or committing for trial a child or young person who is not released on bail shall order him to be detained in the prescribed manner.

Remand or
committal
to custody.

11. (i) Where a child or young person is charged with any offence and brought before a court having jurisdiction under this Act, his parent or guardian may in any case and shall, if he can be found and resides within a

Attendance at
court of
parent of
child or
young person
charged with
an offence,
etc.

reasonable distance and the person so charged or brought before the court is a child, be required to attend at the court before which the case is heard during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.

(ii) Where the child or young person is arrested, the officer in charge of the police station to which he is brought shall cause the parent or guardian of the child or young person, if he can be found, to be warned to attend at the court before which the child or young person will appear.

(iii) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual possession and control of the child or young person: provided that if that person is not the father, the attendance of the father may also be required.

(iv) The attendance of the parent of a child or young person shall not be required under this section in any case where the child or young person was before the institution of the proceedings removed from the custody or charge of his parent by an order of a court.

Power of
Court to pass
sentence of
detention in
Borstal
School.

12. Where it appears to a court having jurisdiction under this Act that a youthful offender should, by reason of his criminal habits or tendencies or association with persons of bad character, be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation and the repression of crime, it shall be lawful for the court, in lieu of passing a sentence of transportation or imprisonment, to pass a sentence of detention in a Borstal School for a term which shall not be less than three or more than five years:

Provided that, before passing such sentence, the court shall consider any report or representation which may be made to it as to the suitability of the case for treatment in a Borstal School and shall be satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case are such that the offender is likely to profit by such instruction and discipline as aforesaid.

Limitation
on powers
conferred by
Section 12.

13. Any person detained in a Borstal School for failure to furnish security when ordered to do so under section 118 of the Code of Criminal Procedure, 1904, shall be released on furnishing such security or on the passing of an order under section 124 of the Code.

276

14. The Inspector-General may, subject to rules made by the Government, if satisfied that any youthful offender undergoing transportation or imprisonment in consequence of sentence passed either before or after the passing of this Act might with advantage be detained in a Borstal School, direct that such person shall be transferred from prison to a Borstal School, there to serve the whole or any part of the unexpired residue of his sentence. The provisions of this Act shall thereupon apply to such person as if he had been originally sentenced to detention in a Borstal School.

Power of Inspector-General to transfer prisoners to Borstal School.

15. (i) Before passing a sentence under section 12, the court shall enquire into the age of the offender and after taking such evidence (if any) as may be deemed necessary, shall record a finding thereon stating his age as nearly as may be.

Preliminary inquiry and finding as to age of youthful offender.

(ii) A similar enquiry shall be made and finding recorded by every Magistrate not empowered to pass sentence under section 12 before submitting his proceedings and forwarding an youthful offender to the District Magistrate or to the Magistrate presiding over Juvenile Court having jurisdiction in the case as required by sub-section (1) of section 7.

16. The order in pursuance of which a young person or child is sent to a Borstal School shall specify the time for which the young person or child is to be detained in the school being—

Period of detention.

(a) in the case of a young person not less than three and not more than five years but not in any case extending beyond the time when the young person will, in the opinion of the court, attain the age of twenty-one years.

(b) in the case of a child such time as the court may deem proper for the teaching and training of the child but not in any case extending beyond the time when the child will, in the opinion of the court, attain the age of seventeen years.

17. A court may, if it shall think fit, having regard to the age, character, antecedents, physical or mental condition of the offender, instead of directing any youthful offender to be detained in a Borstal School, order him to be—

Power to discharge youthful offender or to commit him to suitable custody.

(a) discharged after due admonition or,

(b) committed to the custody of his parent or guardian or any adult relative, on such parent, guardian or relative executing a bond with or without sureties, as the court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding twelve months, and the court may in either case pass a further order that the youthful offender be placed under the supervision of a person named by the court.

Power to
order parent
to pay fine,
etc., instead
of child or
young person.

18. (i) Where a child or young person is convicted of an offence punishable with fine and the court is of opinion that the case would be best met by the imposition of a fine, whether with or without any other punishment, the court may in any case, and shall, if the offender is a child, order that the fine be paid by the parent or guardian of the child or young person, unless the court is satisfied that the parent or guardian cannot be found or that he has not conducted to the commission of the offence by neglecting to exercise due care of the child or young person.

(ii) An order under this section may be made against a parent or guardian who, having been required to attend has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(iii) Where a parent or guardian is directed to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1904.

Detention in
the case of
certain
serious crimes
committed
by children
or young
persons.

19. (i) When a child or young person is convicted of an offence of so serious a nature that the court is of opinion that no punishment which under the provision of this Act it is authorised to inflict is sufficient, the court shall order the offender to be kept in safe custody in such place or manner as it thinks fit and shall report the case for the orders of the Government.

(ii) Notwithstanding the provisions of section 12, the Government may order any such child or young person to be detained in such place and on such conditions as it thinks fit, and while so detained the child or young person shall be deemed to be in legal custody:

Provided that no period of detention so ordered shall exceed the maximum period of imprisonment to which the child or young person could have been sentenced for the offence committed.

20. Where a child or young person charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Act enabling the court to deal with the case, the case should be dealt with, namely, whether,

- (a) by discharging the offender after due admonition; or
- (b) by committing the offender to the custody of his parent, guardian, or any adult relative, on such parent, guardian, or relative executing a bond to be responsible for his good behaviour; or
- (c) by so discharging, or committing, the offender and placing him under the supervision of a person named by the court; or
- (d) by sending the offender to a Borstal School; or
- (e) by ordering the offender to be whipped; or
- (f) by ordering the offender to pay a fine; or
- (g) by ordering the parent or guardian of the offender to pay a fine; or
- (h) where the offender is a young person, by sentencing him to imprisonment; or
- (i) by dealing with the case in any other manner in which it may legally be dealt with.

Provided that nothing in this section shall be construed as authorizing the court to deal with any case in any manner in which it could not deal with the case apart from this section.

21. Every youthful offender directed by a court to be sent to a Borstal School shall be sent to such Borstal School as the Government may, by general or special order, appoint for the reception of youthful offenders so dealt with by such court:

Provided that, if accommodation in a Borstal School is not immediately available for such youthful offender, he may be detained in a special ward or such other suitable part of a prison as the Government may direct until he can be sent to a Borstal School. The period of detention so undergone shall be treated as detention in a Borstal School.

22. The Inspector-General may at any time order an inmate to be removed from one Borstal School to

Methods of
dealing with
children and
young persons
charged with
offences.

Government
to determine
the Borstal
School to
which youth-
ful offender
shall be sent.

Removal from
one school to
another.

(ii) Any order made under this section may, from time to time, be varied by the court.

(iii) The persons liable to maintain a child or young person shall, for the purposes of sub-section (1), include in the case of illegitimacy his putative father:

Provided that where the child or young person is illegitimate and an order for his maintenance has been made under section 488 of the Code of Criminal Procedure, 1904, the court shall not ordinarily make an order for contribution against the putative father but may order the whole or any part of the payments accruing due under the said order for maintenance to such person or persons as may be named, to be applied by him or them towards the maintenance of the young person or child.

(iv) Any order under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1904.

PART VI.

JUVENILE COURTS.

Juvenile
Courts,
Mysore
District

27. (i) The Government may provide for the establishment in any district of one or more separate courts for the hearing of charges against children or young persons or of applications for orders or licences relating to a child or young person at which the attendance of the child or young person is required.

(ii) Where no such separate court has been established, the court before which a child or young person is brought shall, unless the child or young person is tried jointly with any other person, not being a child or young person whenever practicable, sit either in a different building or room from that in which the ordinary sittings of the court are held or on different days or at different times from those at which the ordinary sittings are held.

PART VI.

RELEASE ON LICENCE.

Power to
release on
licence.

28. (i) Subject to any general or special directions of the Government, the Inspector-General, on the recommendation of the Superintendent and the Visiting Committee, may, at any time after the expiration of six

417

another, provided that the whole period of his detention in a Borstal School shall not be increased by such removal.

Transfer of
incorrigibles,
etc., to
prisons.

23. Where a person detained in a Borstal School is reported to the Government by the Superintendent and the Visiting Committee of such school to be incorrigible or to be exercising a bad influence on the other inmates of the School, the Government may commute the unexpired residue of the term of detention to such term of imprisonment of either description as the Government may determine, but in no case exceeding—

(a) such unexpired residue, or

(b) the maximum period of imprisonment fixed for the offence or the failure to give security as the case may be, or

(c) the maximum period of imprisonment which the court that tried him had authority to award under the Code of Criminal Procedure, 1904,

whichever is shortest.

PART III.

CHILDREN AND YOUNG PERSONS NOT BEING YOUTHFUL OFFENDERS.

Children
lible to be
sent to Bor-
stal School.

24. (i) In any area to which the Government shall direct that this section shall apply, any person authorised in this behalf in accordance with rules made by the Government may bring before a court any person apparently under the age of fourteen years who,

(a) is found wandering and not having any home or settled place of abode, or visible means of subsistence, or is found wandering and having no parent or guardian or a parent or guardian who does not exercise proper guardianship; or

(b) is found destitute, not being an orphan and having both parents or his surviving parent or in the case of an illegitimate child, his mother, undergoing transportation or imprisonment; or

(c) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child; or

(d) frequents the company of any reputed thief; and the court before which a person is brought as coming within one of those descriptions, if satisfied on enquiry of

that fact, and that it is expedient so to deal with him, may order him to be sent to a Borstal School.

(ii) Where under this Act a court is empowered to order a child to be sent to a Borstal School, the court, in lieu of ordering him to be so sent, may make an order for the committal of the child to suitable custody in the prescribed manner until he attains the age of seventeen years or for any shorter period.

Power to commit child to suitable custody.

(iii) Any police officer or other person authorised by the Government in this behalf may bring before a Court any person apparently of the age of fourteen or fifteen years so circumstanced that if he were a child he would come within one or other of the descriptions mentioned in sub-section (1) and the court if satisfied on enquiry of that fact and that it is expedient so to deal with him, may make an order for his committal to suitable custody in the prescribed manner until he attains the age of seventeen years or for any shorter period.

Power to commit young person to care of relative or fit person in certain cases.

(iv) The court which makes an order committing a child or young person to suitable custody under this section may, in addition, order that the child or young person be placed under the supervision of a person named by the court.

25. Where the parent or guardian of a child proves to a court that he is unable to control the child, and that he desires the child to be sent to a Borstal School, the court, if satisfied on enquiry that it is expedient so to deal with the child, and that the parent or guardian understands the results which will follow, may order him to be sent to any such school.

Uncontrolable children

PART IV.

MAINTENANCE AND TREATMENT OF PERSONS SENT TO BORSTAL SCHOOLS OR COMMITTED TO SUITABLE CUSTODY.

26. (i) The court which makes an order for the detention of a child in a Borstal school under section 25 or for the committal of a child or young person to suitable custody under this Act may make an order on the parent or other person liable to maintain the child or young person to contribute to his maintenance, if able to do so, in the prescribed manner.

Contribution of parent.

(ii) Any order made under this section may, from time to time, be varied by the court.

(iii) The persons liable to maintain a child or young person shall, for the purposes of sub-section (1), include in the case of illegitimacy his putative father:

Provided that where the child or young person is illegitimate and an order for his maintenance has been made under section 488 of the Code of Criminal Procedure, 1904, the court shall not ordinarily make an order for contribution against the putative father but may order the whole or any part of the payments accruing due under the said order for maintenance to such person or persons as may be named, to be applied by him or them towards the maintenance of the young person or child.

(iv) Any order under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1904.

PART VI.

JUVENILE COURTS.

JUVENILE COURTS.

27. (i) The Government may provide for the establishment in any district of one or more separate courts for the hearing of charges against children or young persons or of applications for orders or licences relating to a child or young person at which the attendance of the child or young person is required.

(ii) Where no such separate court has been established, the court before which a child or young person is brought shall, unless the child or young person is tried jointly with any other person, not being a child or young person whenever practicable, sit either in a different building or room from that in which the ordinary sittings of the court are held or on different days or at different times from those at which the ordinary sittings are held.

PART VI.

RELEASE ON LICENCE.

Power to release on licence.

28. (i) Subject to any general or special directions of the Government, the Inspector-General, on the recommendation of the Superintendent and the Visiting Committee, may, at any time after the expiration of six

months from the commencement of the term of detention, if satisfied that there is a reasonable probability that the inmate will abstain from crime and lead a useful and industrious life by licence permit him to be discharged from the Borstal School on condition that he be placed under the supervision or authority of any Government officer, or secular institution or person, or religious society professing the same religion as the inmate named in the licence who may be willing to take charge of him.

(ii) A licence under this section shall be in force until the term for which the offender was sentenced to detention has expired or the term for which the child or the young person was ordered to be detained in the School has expired, unless sooner revoked or forfeited.

29. Every licence granted under section 28 shall be ^{Form of licence.} in such form and shall contain such conditions as the Government may by rules direct.

30. Subject to any general or special directions of the Government, a licence granted under section 28 may be revoked at any time by the Inspector-General and where a licence has been revoked, the person to whom the licence related shall return to the Borstal School. ^{Revocation of licence.}

31. If any inmate escapes from a Borstal School or if any inmate absents on licence from a Borstal School, removes himself from the supervision of the society or person in whose charge he is placed or fails to return from such supervision to the Borstal School, a police officer not below the rank of a sub-inspector of police may, without orders from a Magistrate and without warrant, arrest him and take him back to the Borstal School and his licence shall be forfeited with effect from the date of his escape or failure to return, as the case may be. ^{Escape and forfeiture of licence.}

32. The time during which a person is absent from a Borstal School under a licence shall be treated as part of the term of his detention in the School: provided that where that person has failed to return to the School on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the term during which he is to be detained in the School. ^{Absence under licence to be counted towards period of detention.}

701

Penalty for abetting escape of youthful offender or child.

33. Whoever—

(a) knowingly assists or induces directly or indirectly a youthful offender or child detained in or placed out on licence from a Borstal School to escape from the school or from any person with whom he is placed out on licence or any child or young person to escape from the person to whose custody he is committed under the provisions of this Act,

(b) knowingly harbours, conceals or prevents from returning to School, or to any person with whom he is placed out on licence or to the person to whose custody he is committed under this Act, a youthful offender, child or young person who has so escaped, or knowingly assists in so doing shall be punishable with imprisonment for a term which may extend to two months or with a fine not exceeding two hundred rupees or with both.

Penalty for introduction or removal or supply of prohibited articles and communication with youthful offenders.

34. Whoever, contrary to any rule made by Government introduces or removes or attempts by any means whatever to introduce into or remove from any Borstal School, or supplies or attempts to supply outside the limits of any Borstal School to any youthful offender under order of detention therein, any prohibited article, and every officer or person in charge of a Borstal School, who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any Borstal School, to be possessed by any youthful offender detained therein, or to be supplied to any such youthful offender outside its limits, and whoever, contrary to any such rule, communicates or attempts to communicate with any such youthful offender,

and whoever abets any offence made punishable under this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding two months or to fine not exceeding two hundred rupees or to both.

PART VII.

APPEAL AND REVISION.

Appeal and revision.

35. For purposes of appeal and revision under the Code of Criminal Procedure, 1904, a sentence of detention under section 12 of this Act shall be deemed to be a sentence of imprisonment for the same period.

Any person affected by an order of the Inspector-General under this Act may appeal to the Government whose orders shall be final.

36. (i) An appeal from an order made by a court ^{Appeals} under sections 18, 24, 25 or 26 shall lie,

- (a) if passed by a Juvenile Court or by any Magistrate other than a District Magistrate, to a District Magistrate;
- (b) if passed by a District Magistrate, to the Court of Sessions;
- (c) if passed by a Court of Sessions, to the High Court.

(ii) No appeal shall lie from any order passed in any such appeal.

(iii) Any order passed under the provisions of this Act and not otherwise provided for may be revised by the High Court.

PART VIII.

MISCELLANEOUS.

37. (i) The Government may, at any time, order a ^{Discharge and transfer} youthful offender or a child—

- (a) to be discharged from a Borstal School either absolutely or on such conditions as the Government approves; or
- (b) to be transferred from one Borstal School to another.

(ii) The total period of detention of the youthful offender or child shall not be increased by any transfer under this section.

38. (i) Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that he is a child or young person, the court shall make due enquiry as to the age of that person and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of the person so

<sup>Presumption
and determina-
tion of
age.</sup>

92

brought before it shall, for the purposes of this Act, be deemed to be the true age of that person and where it appears to the court that the person so brought before it is of the age of eighteen years or upwards, the person shall, for the purpose of this Act, be deemed not to be a child or young person.

(ii) No court shall, in appeal or revision, interfere with any presumption or declaration as to age made under sub-section (1).

Provision as
to religious
persuasion.

39. Where a child or young person is committed to suitable custody under this Act, the court in determining the person to whose custody the child or young person shall be committed shall endeavour to ascertain the religion of the child or young person and shall, if possible, select a person of the same religion or a person who gives such undertaking as seems to the court sufficient that the child or young person shall be brought up in accordance with his own religion.

Removal of
disqualifica-
tion attaching
to conviction
for offences.

40. The conviction of a child or young person shall not be regarded as a conviction for the purposes of any disqualification attaching to a conviction for any offence.

Control of
custodian
over a child.

41. Any person to whose custody a child or young person is committed under the provisions of this Act shall, while the order is in force, have the like control over the child or young person as if he were his parent and shall be responsible for his maintenance, and the child or young person shall continue in his custody notwithstanding that he is claimed by his parent or any other person.

Transfer of
youthful
offenders
to Borstal
Schools in
British India.

42. The Government may order any youthful offender to be transferred from a Borstal School within the State to a Borstal School in British India where there is any arrangement in that behalf between the Government and the Governor-General in Council.

Bonds taken
under this
Act.

43. The provisions of Chapter XLII of the Code of Criminal Procedure, 1904, shall, so far as may be, apply to bonds taken under this Act.

Procedure
when youth-
ful offender
under deten-
tion in a
Borstal
School is
again convic-
ted and
sentenced.

44. When a youthful offender during his period of detention in a Borstal School is again convicted by a criminal court, the sentence of such court shall commence at once, notwithstanding anything to the contrary in section 397 of the Code of Criminal Procedure, 1904, but the court shall forthwith report the matter to the

Government which shall have power to deal with the matter in any way in which it thinks fit.

Notwithstanding anything to the contrary contained in any law, no child or young person shall be sentenced to death, transportation, or imprisonment, or committed to prison in default of payment of fine or in default of furnishing security:

Provided that a child or young person may be sentenced to imprisonment not exceeding ten years or committed to prison as aforesaid where the court certifies that he is of so unruly or of so depraved a character that he is not a fit person to be sent to a Borstal School and that none of the other methods in which the case may legally be dealt with is suitable.

46. When a child or young person is convicted of an offence punishable with fine only and is sentenced to fine, the court may add a sentence of whipping in default of payment of fine unless action against his parent or guardian under sub-section (i) of section 18 is practicable.

First offenders.

47. (i) Whoever being the parent or guardian of any child or young person abandons, exposes, or wilfully neglects or ill treats such child or young person in a manner likely to cause unnecessary suffering or injury to the health of such child or young person shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 200 or with both.

Treatment of a child or young person.

(ii) For the purpose of this section, injury to health includes injury to or impairment of any function of the body or mind, and a parent or guardian being legally liable to maintain any child or young person shall be deemed to neglect or ill treat him if he fails to provide him with such food, clothing, medical aid and lodging, as would, in the opinion of the court which hears the case, be suitable to his condition in life.

(iii) Nothing in this section shall be deemed to affect the right of a parent, teacher or guardian to administer reasonable punishment to a child or young person in his charge.

48. (i) Whoever for his own profit causes, or being the parent or guardian allows, any child or young person to beg in any public place shall be punishable with simple imprisonment for a term which may extend to three

Encouraging begging by a child or young person

months or with fine which may extend to Rs. 100 or with both.

(ii) The Government may, by notification in the official Gazette, exempt from liability to punishment under this section any class of persons in any district or place where this Act may be in operation.

Permitting
any child or
young person
to frequent
brothel.

49. Whoever being the parent or guardian of any child or young person allows that child or young person to reside in or frequent a brothel shall be punishable with imprisonment which may extend to six months or with fine which may extend to Rs. 500 or with both.

Custody of
any child or
young person
in respect of
whom an
offence is
committed or
likely to be
committed.

50. In any case in which a police officer not below the rank of a sub-inspector or a person authorised in this behalf in the prescribed manner, is of opinion that an offence under section 47 or 48 or 49 has been, or is likely to be committed in relation to any child or young person, he may cause such child or young person to be placed in safety in such manner as the Government may, by rule, prescribe: provided that such child or young person shall not, without an order of a court empowered under section 6 be detained for more than 24 hours in addition to the time necessary to produce him before such court.

Search
warrant.

51. In any case in which any court empowered under section 6 has reason to believe that an offence under section 47 or 48 or 49 has been or is likely to be committed in relation to any child or young person within its jurisdiction, the court may cause the production of such child or young person by a search warrant and the provisions of the Code of Criminal Procedure, 1904, shall apply to such warrant as if it were under section 100 of the said Code.

Bond by
parent or
guardian.

52. (i) If any court empowered under section 6 after such enquiry as the court thinks reasonable is of opinion that any child or young person is allowed by the parent or guardian to be in circumstances conducive to the commission of an offence under section 47 or 48 or 49, the court may, after giving the parent or guardian an opportunity of being heard, require such parent or guardian to enter into a bond with or without sureties to exercise proper care to prevent the commission of any such offence in relation to such child or young person and in default of his furnishing such security, the court may order him to suffer simple imprisonment for a term which may

extend to six months or to pay a fine which may extend to Rs. 100.

(ii) The provisions of sections 513, 514, 514-A and 516 of the Code of Criminal Procedure, 1904, shall, so far as may be, apply to bonds taken under this section.

53. Where the parent or guardian of any child or young person is convicted of an offence under section 47 or 48 or 49 or under Chapter XVI of the Indian Penal Code, 1860, in relation to such child or young person, the court shall have power (in addition to powers of sentencing the offender) to make a custody order in respect of such child or young person to send him to a Borstal School as if he were dealt with under Part II.

Power to
make custody
order or send
any child or
young person
to Borstal
School.

Statement of Objects and Reasons.

The question of having a Borstal School in the State has been under the consideration of Government for some time past. A Committee was constituted in 1936 to examine the desirability and feasibility of starting an institution of the kind and to suggest the legislation necessary to give effect to their proposals. The Committee forwarded their report in March 1937. The Committee considered it desirable that young offenders should be provided with a place of detention other than the ordinary jail so that they may be reformed. They also forwarded the draft of the necessary legislation. The recommendations of the Committee were published for the information of the public and opinions invited.

The Bill deals not only with youthful offenders but also with juveniles who have not committed any offence but who, owing to want of parental control, bad association or other reasons, need protection and training. "Child" is defined as a person under the age of 14 years and, "young person" as one between 14 and 18 years. A person under the age of 18 years convicted of an offence punishable with transportation or imprisonment may, if the court considers it desirable to detain the youthful offender under instruction and discipline most conducive for his reformation, order his detention in a Borstal School. The Inspector-General of Prisons may, subject to rules framed by Government, direct that any youthful offender undergoing transportation or imprisonment shall be

transferred to a Borstal School. The minimum period of detention in a Borstal School is fixed at three years and the maximum five years. Provision is also made for the discharge after due admonition, or committal to the custody of the parent or guardian, of a youthful offender instead of committal to a Borstal School. Before taking such action the person's age, character and antecedents will be considered. Where a person detained in a Borstal School is reported to be incorrigible, the unexpired portion of the term of his detention may be commuted to imprisonment. Children who are found wandering without a home, or associating with any reputed thief or whose parents or guardians are unfit to have their care, may be brought before the Court which may order them to be sent to a Borstal School or committed to suitable custody. Provision is made for the establishment of juvenile courts for dealing with charges against juveniles.

Provision is also made for the release of an inmate of a Borstal School on licence, provided he is placed under the supervision of a suitable person or institution willing to take charge of him.

In the interest of the well-being of children and the proper development of their character, provision is made for the punishment of offences against children such as ill-treatment or encouraging them to beg or allowing them to frequent brothels.

The management and control of the Borstal School and the training, educational and industrial, to be given therein and the control of the inmates will be prescribed by rules under the Act.